

EXHIBIT 17
FILED UNDER SEAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. 3:17-cv-00939-WHA

WAYMO LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC;

OTTO TRUCKING,

Defendants.

VIDEOTAPED DEPOSITION OF
JAMES E. MALACKOWSKI
DATE TAKEN: OCTOBER 3, 2017

REPORTED BY:

PAUL J. FREDERICKSON, CCR, CSR

JOB NO. 2720761

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1 the thrust, meaning that, yes, if these terms 12:01:02
2 are executed, then Otto Trucking will be the 12:01:07
3 exclusive field of use licensee for Uber's 12:01:13
4 AV-related technology. 12:01:17

5 Q. In those circumstances, Uber won't 12:01:17
6 be allowed to use its own AV technology that 12:01:20
7 it's developed in the trucking field; correct? 12:01:24

8 MR. BRUN: Objection, form. 12:01:27

9 A. Well, Uber will be Otto Trucking 12:01:29
10 in the sense that they will be a 50 percent 12:01:31
11 owner, so they will get the benefit through 12:01:33
12 that participation. 12:01:36

13 Q. The license to Otto Trucking 12:01:37
14 happens if Uber doesn't acquire Otto Trucking, 12:01:39
15 right? 12:01:43

16 MR. BRUN: Same objection. 12:01:44

17 A. Yes, true. Fair correction. 12:01:47

18 Q. Just so that we have a clear 12:01:53
19 record, in the event that Uber does not acquire 12:01:55
20 Otto Trucking, Otto Trucking will have an 12:01:58
21 exclusive field of use license regarding Uber's 12:02:00
22 autonomous vehicle technology in the trucking 12:02:03
23 field; correct? 12:02:06

24 MR. BRUN: Objection, form. 12:02:07

25 A. Yes, generally speaking, that's 12:02:13

1 true. 12:02:14

2 Q. In those circumstances, Uber will 12:02:16

3 not be able to use the autonomous vehicle 12:02:18

4 technology it developed in the trucking field; 12:02:21

5 correct? 12:02:24

6 MR. BRUN: Same objection. 12:02:25

7 A. That's generally my understanding 12:02:26

8 of the term sheet, correct. 12:02:28

9 Q. Do you know the current status of 12:02:30

10 potential acquisition discussions between Uber 12:02:32

11 and Otto Trucking? 12:02:35

12 A. No, sir, I don't believe that an 12:02:38

13 acquisition has taken place. I understand 12:02:41

14 we're in a window where that's possible. 12:02:43

15 Q. Do you know whether 12:02:45

16 Mr. Levandowski's firing from Uber has affected 12:02:46

17 the potential acquisition of Otto Trucking by 12:02:49

18 Uber? 12:02:52

19 A. I do not. 12:02:53

20 Q. Do you know how this lawsuit has 12:02:54

21 affected Uber's potential acquisition of Otto 12:02:56

22 Trucking? 12:03:00

23 A. I do not. 12:03:00

24 Q. Did you review Waymo's 12:03:07

25 interrogatory responses as part of your work in 12:03:08